

LC: Speech by CS in presenting Government Minute in response to Annual Report of The Ombudsman 2019

Following is the speech (translated from Chinese) by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in presenting the Government Minute in response to the Annual Report of The Ombudsman 2019 in the Legislative Council today (March 18):

Mr President,

I am submitting today the Government Minute (GM) responding to the recommendations set out in the Annual Report of The Ombudsman 2019 (the Annual Report).

This is the final Annual Report prepared by the former Ombudsman Ms Connie Lau at the end of her five-year tenure. I would like to take this opportunity to thank Ms Lau once again for her sterling contribution to improving public administration. Her efforts in promoting mediation as an alternative way for government departments to handle complaints from members of the public has indeed brought about significant changes. Through stepping up the Office of The Ombudsman (the Office)'s efforts in conducting direct investigations, Ms Lau had also examined various policies of community concern from a wider perspective, fully demonstrating the function of The Ombudsman as an independent watchdog of public administration. Looking to the future, the Government will continue to fully support the work of the incumbent Ombudsman Ms Winnie Chiu and her Office, and strive to implement The Ombudsman's recommendations for bringing about sustained improvements in public services and related policies.

In the Annual Report, The Ombudsman summed up 12 direct investigation and 205 full investigation cases which gave rise to a total of 253 recommendations. The GM responds to the 12 direct investigation and 105 full investigation cases where recommendations were made by The Ombudsman. Government departments and relevant public bodies accepted most of the recommendations, and relevant follow-up actions have been or are being taken. As for individual recommendations that could not be accepted, relevant departments have given an account or provided supplementary information to The Ombudsman for consideration, and explained their difficulties or responded in detail in the GM.

Mr President, the Office handled nearly 5 000 complaints in 2018-19. Whether the complaint cases were pursued by inquiry, full investigation or mediation, government departments and public bodies fully co-operated with the Office and handled the cases in an earnest manner. The Ombudsman has been using its unique statutory powers of investigation to help government departments and public bodies identify problems that triggered complaints, probe into the roots of these problems and recommend comprehensive systemic

solutions or more effective measures to promote good public administration, thereby enhancing their operational efficiency and responsiveness to public needs. The positive interactions between the Office and government departments, especially in the direct investigation cases, have brought about active cross-departmental co-ordination and co-operation with very encouraging results.

The direct investigation into the Government's regulation of proprietary Chinese medicine (pCm) is a case in point. The Ombudsman examined in depth the loopholes in the definition of pCm under the Chinese Medicine Ordinance (Cap. 549), the progress of migration from transitional registration of pCm to formal registration and other related matters. The Government has accepted the 12 recommendations made by The Ombudsman and acknowledged that there is room for improvement in the regulation of pCm. I am pleased to point out that the Government has already initiated the legislative amendment exercise relating to the definition of pCm under the Ordinance, and will put forward the amendment proposals to the Panel on Health Services of the Legislative Council in due course. In addition, the Government has established a \$500 million Chinese Medicine Development Fund (CMDF) to provide financial support for the Chinese medicines sector to promote the development of Chinese medicine with a view to, among other things, assisting local Chinese medicine traders in the registration of pCm. The CMDF has rolled out various subsidy programmes progressively since mid-2019 to provide technical support to the trade and further expedite the pCm registration process. The Government will continue its effort to improve the regulatory mechanism of Chinese medicines in Hong Kong, and to provide drug safety messages to the public, industry and other stakeholders via different channels.

On the other hand, in The Ombudsman's direct investigation on government departments' handling of the problem of air-conditioner dripping, the relevant procedures and guidelines of the Food and Environmental Hygiene Department were looked into. To better resolve the problem of air-conditioner dripping, The Ombudsman also explored tasking the Buildings Department with the duty to introduce measures which prompted and encouraged the inclusion of installation of communal drainage pipes for disposing condensate from air-conditioners in the comprehensive maintenance programmes of buildings. With the concerted efforts of the two departments, all recommendations set forth in the direct investigation report have been implemented. This is certainly very good news for those residents who have long been troubled by such issues.

Concerning access to information, the number of requests for information made to government departments has continued to rise. In 2018-19, departments received a record high of over 7 700 requests for information made by members of the public under the Code on Access to Information (the Code), representing an increase of over 20 per cent as compared to 2017-18. In the light of such a large volume of requests, government departments have worked hard to handle each request for information in accordance with the Code. 94 per cent of the cases were provided with all the information requested, and another 3 per cent were provided with part of the information requested. While the number of requests for information has consistently increased by a

huge margin, the Office received 87 complaints in 2018-19 regarding access to information, which has fallen from 93 in 2017-18.

We appreciate the public expectation for the Government to remain open and accountable. We also note the Office has indicated that there was still reluctance among public organisations in releasing information, or a lack of thorough understanding of the spirit and principles of the Code. To improve staff awareness and understanding of the Code, the Constitutional and Mainland Affairs Bureau will continue to provide relevant departments and organisations with briefings on improperly handled cases and content of the Code, including a training video for reference by staff involved in regular handling of Code requests. A number of departments have also accepted The Ombudsman's recommendations to provide complainants with the existing relevant information requested in accordance with the Code, and to review and strengthen staff training on the application of the Code.

In view of the concern raised by the Office that some departments were bound by the agreements with third parties not to disclose certain information, departments would consider, depending on the actual circumstances, whether it is appropriate to revise the relevant terms of the agreements. For example, the Lands Department has incorporated a clause in its new tenancy agreement allowing the Government to disclose the renewal rental without the need to seek the tenant's consent. The Ombudsman has also pointed out that some bureaux/departments have not kept the statistics requested by the public. The Government has issued clear guidelines requiring bureaux/departments to create and collect sufficient but not excessive records to document accurately and adequately government functions, policies, procedures, decisions and transactions. The Government will continue to remind bureaux/departments of this guideline.

The Government has an open mind on improving the current access to information regime and has implemented some of the Office's recommendations made in 2014, including enhancing publicity on the Code and offering more related information to the public. As regards the recommendation of introducing a law on access to information, the Office took note of the fact that the Law Reform Commission (LRC) Access to Information Sub-committee has published its consultation paper in December 2018 and conducted a three-month public consultation. The Sub-committee is considering the views collected from the public consultation and will finalise its reform proposals. After considering the draft report submitted by the Sub-committee, the LRC will publish its final report. The Government will carefully examine recommendations of the final report from the LRC on how to improve the current access to information regime.

Mr President, The Ombudsman had expressed her concern about the effectiveness of the Government's monitoring of outsourced work or services performed by its contractors. As the provider of public services, the Government affirms its departments' responsibility in closely monitoring and supervising their contractors and subvented organisations, for whose performance they are accountable to the general public. To this end, government departments have taken steps to change their procurement arrangements and enhance their monitoring role. When handling complaints

about provision of public services by its contractors, relevant departments will strive for a more objective and comprehensive understanding of the actual circumstances of the complaints concerned to facilitate more direct and appropriate follow-up actions. The Government also pays close attention to the training and supervision provided by the contractors and subvented bodies for their staff, so as to ensure that the quality of their services meet the requirements of the contracts and the public's expectations.

Last but not least, Mr President, I would like to express my gratitude to The Ombudsman and her professional team for their independence and impartiality in handling complaints from members of the public, providing them with a trusted complaint channel and successfully boosted their confidence in public administration. In addressing The Ombudsman's recommendations, I have been encouraging my colleagues to assume the role of a collaborator in upholding professionalism, humbly listening and committing to ensure the effective implementation of remedial measures. Together, we shall enhance the standard of public administration in Hong Kong.

Thank you, Mr President.